

This version of the code is dated April 6, 2022 and reflects the Planning Commission recommendation with some additional edits. Changes recommended by the Planning Commission have been incorporated into this version. Additional edits made since the Planning Commission's recommendation are shown in track changes. Areas of the code that are highlighted in grey indicated sections that are clearly not applicable outside the city limits, inside the Urban Growth Boundary (UGB).

## **5.20-100                      Vacation of Rights-of-Way and Easements**

### **Subsections:**

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<b>5.20-120</b>	<b>Submittal Requirements</b>
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### **5.20-105              Purpose**

As land develops, and as land uses change over time, certain public property and easements may no longer be necessary or may need to be relocated. The reconfiguration of Subdivisions and Partitions may also be desired. This Code, the Springfield Municipal Code, 1997 Sections 3.200 through 3.206 and ORS 271.080 et seq., provide procedures, requirements, and approval criteria for Vacations.

### **5.20-110              Applicability**

- A.**     The Vacation process applies to public rights-of-way, other public land, public utility and other public easements, and recorded Subdivision and Partition Plats under the jurisdiction of the City.
- B.**     The City's Vacation process shall not apply to:
  - 1.**     Lands over which Lane County or the State have jurisdiction, including, but not limited to: public rights-of-way or Subdivision and Partition Plats within the City's urbanizable area; or
  - 2.**     Lane County streets and State highways within the City limits where jurisdiction has not been transferred to the City.

### **5.20-115              Review**

- A.**     The Vacation of all public easements is reviewed under Type 2 procedure.

**EXCEPTION:** Public utility easements within Partition and Subdivision Plats may also be realigned, reduced in width or omitted as part of the Replat process as specified in SDC 5.12-165.

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- B.** The Vacation of any public rights-of-way, any other public land as specified in ORS 271.080 et seq., and the Vacation of Partition and Subdivision Plats in part or in their entirety, including public rights-of-way and public utility easements located within the Plat, is reviewed under Type 4 procedure.

<b>5.20-120</b>	<b>Submittal Requirements</b>
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- A.** Vacation of public rights-of-way and public easements may be applied for by property owners, public agencies, or initiated by the City Council.
- B.** Vacation of Partition and Subdivision Plats may be applied for by property owners.
- C.** The application shall include:
- 1.** A legal description of the public rights-of-way, easement or Plat to be vacated prepared by an Oregon Licensed Land Surveyor or other professional approved by the Director;
  - 2.** The reason for the Vacation;
  - 3.** The proposed use of the property after Vacation;
  - 4.** For citizen initiated Vacations of public rights-of-way or Partition and Subdivision Plats, the petition of affected property owners;
  - 5.** A map prepared by an Oregon Licensed Land Surveyor or other professional approved by the Director of the area proposed to be vacated. The map shall show:
    - a.** The date, north arrow, and standard scale,
    - b.** The Assessor's Map and Tax Lot numbers of the affected properties and adjacent properties,
    - c.** A Vicinity Map on the Site Plan (Vicinity Map does not need to be to scale),
    - d.** All adjacent streets including street name, alleys, and accessways, and right-of-way and paving widths,

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- e. All dimensions of existing public utility easements and any other areas restricting use of the parcels, for example: conservation areas, slope easements, access easements,
  - f. Existing dimensions and square footage of the lots/parcels involved,
  - g. Proposed dimensions and square footage of the lots/parcels involved (applies to Vacations of undeveloped Subdivision Plats and right-of-way Vacations),
  - h. For public easement and right-of-way Vacations, clearly show dimensions of entire easement or right-of-way on or adjacent to the subject lots/parcels. Also clearly show dimensions of that portion proposed for Vacation, including square footage, and
  - i. For right-of-way Vacations, demonstrate compliance with the boundary requirements of ORS 271.080 et seq.,
6. Where public easements are proposed to be vacated, a notarized letter of concurrence with the Vacation from all utility providers other than the City (telephone, cable TV, electric, water and gas), shall be submitted with the application.
- (6238)

<b>5.20-125</b>	<b>Notice</b>
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- A. Notice for Vacations reviewed under Type 2 procedure is as specified in SDC 5.1-130.
- B. Notice for Vacations reviewed under Type 4 procedure is as specified in SDC 5.2-115.

**EXCEPTIONS:**

- 1. Newspaper notice shall be published once each week for two consecutive weeks prior to the public hearing. The first day of publication and the posting shall be not less than 14 days before the hearing.
  - 2. The applicant shall post two signs, approved by the Director on the subject property, or if right-of-way is proposed to be vacated, the notice shall be attached to a telephone or other similar utility pole within the Vacation area.
- C. Notice for all Vacations will be mailed to all utility providers providing service within the city limits and the City's urbanizable area.

<b>5.20-130</b>	<b>Criteria</b>
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- A.** For the Vacation of public utility easements, the Director shall approve, approve with conditions, or deny the application. The application will be approved if the Vacation is found to be consistent with the following criteria:
1. There are no present or future services, facilities, or utilities deemed to be necessary by a utility provider and the easement is not necessary; or
  2. If the utility provider deems the easement to be necessary, public services, facilities, or utilities can be extended in an orderly and efficient manner in an alternate location.
- B.** Where the proposed Vacation of public rights-of-way, other city property, or Partition or Subdivision Plats is reviewed under Type 4 procedure, the City Council shall approve, approve with conditions, or deny the Vacation application. The application will be approved if the Vacation is found to be consistent with the following approval criteria.
1. The Vacation shall be in conformance with the Metro Plan, Springfield Transportation System Plan (including the Conceptual Street Map) and adopted Functional Plans, and applicable Refinement Plan diagram, Plan District map, or Conceptual Development Plan;
  2. The Vacation shall not conflict with the provisions of Springfield Municipal Code, 1997; and this Code, including but not limited to, street connectivity standards and block lengths; and
  3. There shall be no negative effects on access, traffic circulation, emergency service protection or any other benefit derived from the public right-of-way, publicly owned land or Partition or Subdivision Plat.
- C.** Notwithstanding the provisions of Subsection B., above where the land affected by the proposed Vacation of public right-of-way, other public land as specified in ORS 271.080, or public easement will remain in public ownership and will continue to be used for a public purpose, the request shall be reviewed under the Type 4 procedure. The City Council may approve the Vacation application if it is found to be consistent with the following criteria:
1. The Vacation was initiated by the City Council pursuant to ORS 271.130(1);
  2. Notice has been given pursuant to ORS 271.110(1);

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3. Approval of the vacation would be consistent with provision of safe, convenient and reasonably direct routes for cyclists, pedestrians and vehicles as provided in OAR 660-012-00045(3);
4. Whether a greater public benefit would be obtained from the vacation than from retaining the right of way in its present status; and
5. Whether provisions have been made to ensure that the vacated property will remain in public ownership. (6412)

<b>5.20-135</b>	<b>Conditions</b>
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If the Director or the City Council approves a Vacation, the following conditions may be attached:

- A. For a Vacation involving public right-of-way, where applicable, an easement for a public facility, publicly owned utility or other utility shall be retained.
- B. A public facility, publicly owned utility or other utility shall be constructed, relocated or removed at the applicant's expense or through cost sharing with the City as may be available. A new public easement shall then be required.
- C. A Vacated Partition or Subdivision Plat shall be replatted, where necessary.
- D. A public right-of-way shall be relocated and rebuilt at the applicant's expense or through cost sharing with the City, as may be available.
- E. Where the Vacation of a City right-of-way results in an assessment of special benefit to the remaining property, the property owner shall provide compensation to the City as specified in Section 3.204 of the Springfield Municipal Code, 1997.
- F. The City Council may attach any other conditions as may be reasonably necessary in order to allow the Vacation to be granted.

<b>5.20-140</b>	<b>Zoning of Vacated Right-of-Way</b>
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Vacated right-of-way is incorporated into the abutting property, typically to the centerline. However, in cases where only one abutting property dedicated right-of-way, all the vacated right-of-way would be incorporated into that property. In any case, the vacated right-of-way acquires the zoning of the abutting property, without the need of a separate Zoning Map amendment. (6238)